

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

v.

00 Cr. 105 (RPP)

**OPINION AND ORDER**

TROY HARRIS,

Defendant.

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**ROBERT P. PATTERSON, JR., U.S.D.J.**

On October 22, 2008, this Court reduced its sentence of Defendant Troy Harris from 188 months of imprisonment to 151 months in view of the decision of the United States Sentencing Commission to reduce retroactively sentences for defendants convicted of crack cocaine offenses by two levels pursuant to 18 U.S.C. § 3582(c)(2). See 28 U.S.C. § 994(u).

Thereafter, Defendant, by letter dated October 26, 2008, suggested that the Court should take up issues raised at sentencing that were not taken into consideration in the Court's Order of October 22, 2008. By Order dated October 30, 2008, the Court asked the Defendant if he wanted to pursue those issues and by letter dated November 7, 2008 (received November 18, 2008). Defendant responded that he wished to pursue those issues. Accordingly, on November 19, 2008, the Court assigned counsel on November 19, 2008 to advise Defendant on those issues, and on May 18, 2009 counsel filed papers on Defendant's behalf. The Government's response was filed on June 12, 2009.

As set forth in the Government response, this Court, having reduced Defendant's sentence to 151 months pursuant to 18 U.S.C. § 3582(c), is precluded from reducing

Defendant's sentence any further under the plain language of Guideline § 1B1.10. See United States v. Savoy, 567 F.3d 71, 72 (2d Cir. 2009) (the "Court shall not reduce the Defendant's term of imprisonment under 18 U.S.C. § 3582(c)(2) and this policy statement to a term that is less than the minimum of the amended Guideline Range....").

Since Guideline § 1B1.10 is binding on sentencing courts, Defendant's motion for a further reduction in his sentence is denied.

IT IS SO ORDERED.

Dated: New York, New York  
July 27, 2009

  
Robert P. Patterson, Jr.  
U.S.D.J.

Copies of this Opinion and Order sent to:

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